

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN L WHEELER; GLORIA A WHEELER, No C 08-03230 VRW

Plaintiffs,

ORDER

v

BANK OF AMERICA NT and SA;
LIBERTY REVERSE MORTGAGE; SEATTLE
FINANCIAL GROUP,

Defendants.

On February 12, 2009, the court continued the stay in this matter pending the resolution of Miller v Bank of America NT and SA, 46 Cal 4th 630 (2009) ("Miller").

On February 20, 2009, the court dismissed the claims against defendants Liberty Reserve Mortgage and Seattle Financial Group. Doc #39.

On June 1, 2009, the California Supreme Court issued its decision in Miller. The court concluded that Bank of America's practice of balancing customers' accounts by applying account

1 credits against account debits does not violate California law. 46
2 Cal 4th at 638-44. The supreme court's decision became final on
3 July 24, 2009, when the court issued its remittitur to the court of
4 appeal. Doc #40, Exh D.

5 Given that plaintiffs' complaint challenges the same
6 banking practices that the California supreme court has found to be
7 legal, plaintiffs are ORDERED to SHOW CAUSE in a writing not to
8 exceed five pages why the court should not execute judgment for
9 defendants. Any return to this order shall be filed on or before
10 August 31, 2009.

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12 IT IS SO ORDERED.

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15 VAUGHN R WALKER
16 United States District Chief Judge
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